801.11

[redacted]

May 21, 1999

By Hand

Richard B. Smith
Deputy Assistant Director
Premerger Notification Office
Federal Trade Commission
Room H-323
6th and Pennsylvania Avenue, N.W.
Washington, DC 20580

Dear Mr. Smith:

This is to confirm our conversation on May 19, 1999 in which you advised me that the transaction described below is not reportable.

[redacted]
the salaries of the employees is the gross profit of Company B.

Company A, the acquiring company, has sales or assets which exceed $100 [redacted]
wages of worksite employees and benefits and payroll taxes. When those direct costs are deducted from the revenue, the resulting gross profit is about $7.5 million.

You concluded that the size-of person test is not met. Since the acquired company is a non-manufacturing company, its assets must equal or exceed $10 million or its sales must equal or exceed $100 million before a filing is necessary. 15 U.S.C. §18a (a)(2) Here, the asset test is not met because the assets as shown on the last regularly-prepared balance sheet are less than $10 million. You advised me that the revenue to be used in determining the amount of "sales" is not the $200 million shown as the revenue

[redacted]

on the income statement. You reasoned that Company B is a conduit for the third-parties' [redacted]

Consequently, the size-of-person test is not met, and no filing is needed.

Please advise me within three days of your receipt of this letter if you disagree with the above.

Thank you very much.

Sincerely,

[redacted]

[redacted]

5/24/99 Advised writer that we agreed with deduction of amounts paid to Company ... to worksite employees (with

cc: [redacted] any [redacted]

R.B.Smith

[redacted]